IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 45 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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COMMISSIONER OF INCOME-TAX

Versus

AMBICA ESTATE ORGANISER

Appearance:

MR BB NAIK for MR MANISH R BHATT for Petitioner No. 1

MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 28/06/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

At the instance of the revenue, the following

question of law has been referred to this Court for its opinion under the provisions of sec. 256(1) of the Income-tax Act, 1961 (hereinafter referred to as 'the Act') :

"Whether, in law and on facts, the assessee is entitled to registration for assessment year 1979-80 as claimed?"

2. We have heard learned advocate Shri BB Naik for the applicant and learned advocate Shri R.K. Patel appearing for the respondent assessee.

3. At the time of hearing of this reference, it has been very fairly submitted by both the advocates that during pendency of this reference it has been decided by this Court in ITR No. 263/85 and ITR No. 296/85 that Smt. Surajben C. Patel Trust is a genuine trust. It is pertinent to note that the Assessing Officer had refused registration of the assessee firm on the ground that Smt. Surajben C. Patel Trust was not genuine. Ultimately, the Tribunal had come to the conclusion, in appeal, that the said trust was genuine and now even this Court has finally concluded that the said trust is a genuine one.

4. In view of the said fact, in our opinion, the assessee was entitled to registration as a firm for the Assessment Year 1979-80 as claimed and the Tribunal has rightly held that the trust was genuine.

5. In view of the facts stated hereinabove, we answer the question referred to us in the affirmative i.e. in favour of the assessee and against the revenue.

The reference is thus disposed of with no order as to costs.

(A.R. Dave, J.)

(D.A. Mehta, J.)

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